

**Arizona State Board of Homeopathic Medical
Examiners
Minutes of Regular Meeting
May 13, 2003**

I. CALL TO ORDER

Presiding officer, Bruce Shelton, MD, MD(H), called the meeting to order at 9:00 a.m.

II. ROLL CALL

BOARD MEMBERS PRESENT:

Bruce Shelton, MD, MD(H), President

Charles Schwengel, DO, MD(H), Vice President

Joan Heskett, Public Member, Secretary/Treasurer

Garry Gordon, MD, DO, MD(H)

Anna Marie Prassa, Public Member (arrived 11:00 a.m.)

Annemarie Welch, MD, MD(H), Professional Member

Mark Harris, Assistant Attorney General and Christine Springer, Executive Director were also present.

III. REVIEW/APPROVAL OF MINUTES

The Regular Meeting minutes of March 11, 2003 were discussed and clarified with regard to agenda item III and a discussion and vote concerning a request by Joseph Collins, DO, MD(H) to amend a consent agreement and order he had previously signed. At the March meeting, the Board voted on a motion to change the basis of action that could have been used to deny licensure from ARS 32-2912(A)(1) (lack of good moral character) to ARS 32-2912(A)(5) (has a professional record which indicates the applicant has not committed any act or engaged in conduct that would be grounds for discipline). Dr. Gordon had made the motion to change the basis of action. Drs. Shelton, Welch and Gordon voted aye. Dr. Schwengel was recused and board members Prassa and Heskett voted no. A.A.G. Harris pointed out that normally four votes (or the majority) would be needed on a licensing matter. However, in this instance the motion was intended as a clarification of a previous vote. The motion to change the basis of action to ARS 32-2912(A)(5) passed with three aye votes.

Dr. Gordon made a motion to adopt the March 11, 2003 regular minutes as clarified. Dr. Welch seconded the motion that passed unanimously.

A motion approving the March 11, 2003 Executive Session Minutes was made by Dr. Gordon, seconded by Ms. Heskett and passed unanimously.

IV. REVIEW, CONSIDERATION, AND ACTION ON APPLICATIONS FOR LICENSURE

A. *New Applications*

Dr. Warren Levin was present and responded to questioning from board members concerning his plans to relocate to Arizona and a pending complaint action in the State of Connecticut. Medical charts of four of Dr. Levin's patients had been requested by the State of Connecticut. Each patient had written a letter in support of Dr. Levin and indicated that it was not their action or desire to initiate a complaint against the doctor. The complaint appears to have been initiated by the State of Connecticut medical board. Following completion of the oral examination, Dr. Gordon moved to accept Dr. Levin's application for licensure with the effective date to be based upon completion of Dr. Rowe's coursework in classical homeopathy. Dr. Welch seconded the motion that passed unanimously.

B. *Previous Applications*

This agenda item was discussed during the review of the regular meeting minutes of March 11, 2003.

V. REVIEW, CONSIDERATION AND ACTION REGARDING INVESTIGATIONS/COMPLAINTS

Following a motion by Dr. Gordon, seconded by Dr. Welch, the Board adjourned to Executive Session for legal advice relating to pending cases 01-18, 02-04, and 02-05 concerning Kathleen Fry, MD,MD(H) at 11:00 a.m. Motion passed unanimously. The Board returned to the Regular Session at 11:20 a.m.

A short break was called and the Board returned to session at 11:40 a.m.

A. *Previous Cases*

1. Case CV2002-021232 Kathleen Fry, MD(H) vs. Board of Homeopathic Medical Examiners

The executive director explained that on February 12, 2003 this case had been dismissed by the Superior Court. The dismissal was appealed within the lawful time and would be scheduled for review by the Court of Appeals.

2. Case Nos. 02-16

The executive director noted that the Arizona Medical Board requested jurisdiction in this matter and the case had been referred to them.

3. 01-18 M.B. vs. Kathleen Fry, MD, MD(H); 02-04 H.O. vs. Kathleen Fry, MD, MD(H), and 02-05 T.H. vs. Kathleen Fry, MD, MD(H).

a. Dr. Gordon made a motion to rescind a previous motion to hold an investigative interview in this matter. Board member Prassa seconded the motion that passed unanimously.

b. Dr. Shelton suggested that the instant cases should be dismissed and an advisory Letter of Concern be issued. He indicated that Dr. Fry can request

educational consults from wherever she wants, but to have the consultant in the room during the consultation with the patient gives an appearance of impropriety. In addition, to have the consultant collect the fee directly from the patient, particularly since the consultant is unlicensed gives an appearance of impropriety and may be inappropriate. Motion seconded by Ms. Prassa and passed unanimously: 6-0.

4. 03-08 P.C. vs. Abram Ber MD(H)

Dr. Ber was present for an investigative interview. At the beginning of the discussion, Dr. Welch provided an overview of the case. Dr. Ber explained that P.C., a Florida resident, was referred to him by a mutual friend. He agreed to provide medical assistance and requested an oral swab from P.C. From the results of the swab, it appeared that P.C. suffered from parasites. Dr. Ber prescribed a Russian Sputnik capsule that P.C. swallowed and was intended to remove parasites from the colon. The bowel became obstructed and surgery was required to remove the capsule. Dr. Shelton inquired if a full medical history had been obtained from P.C. Dr. Ber indicated that a verbal history had been obtained. Documentation indicated the patient had informed him of a prior history of radiation treatments for the colon. Dr. Ber stated that he had learned that it is not possible to provide long distance medical assistance and although he was attempting to help P.C. at the request of their mutual friend, it had not been wise to do so.

A.A.G. Harris stated that the Board's options were to dismiss, issue a letter of concern, or, since Dr. Ber had admitted he had made a mistake, the Board could set the matter for informal hearing or enter into a consent agreement.

Board member Heskett indicated she believed a letter of concern was appropriate since the patient had informed Dr. Ber of prior radiation treatments in the colon. Dr. Gordon made a motion to issue a Letter of Concern to Dr. Ber noting that the board agreed it was inappropriate to prescribe the Sputnik device for patients that have not had a full physical examination. Motion seconded by Dr. Welch and passed 6-0.

5. 02-17 B.J.L. vs. Alexander Cadoux, MD, MD(h)

Dr. Cadoux was present for an investigative interview. He explained that B.J.L. had sought treatment for removal of facial hairs and that the terms of the written contract had been performed and exceeded. B.J.L. had been given additional treatments at no extra cost in an attempt to permanently remove particularly resistant grey facial hairs. Dr. Shelton inquired about whether or not the service was medical or esthetic. Dr. Cadoux explained that the contract clearly spells out the esthetic aspects of the treatments and that his clinic is divided into two areas: medical and esthetic. In responding to Dr. Shelton's further questions concerning whether or not a medical consult was indicated for B.J.L., Dr. Cadoux explained that the patient had hair appropriate for her age and as such would not have suggested further medical tests. In fact, it may have been viewed as fishing

for more fees had he done so. Dr. Gordon questioned Dr. Cadoux about the physical set-up of the waiting rooms. Ms. Heskett inquired about fee payment and whether or not full payment was expected at the beginning of treatment. Dr. Cadoux explained that payment was expected at the onset of treatment.

Dr. Gordon moved to dismiss with no action noting that Dr. Cadoux had fulfilled the terms of the written contract. Dr. Schwengel seconded the motion. Dr. Shelton expressed his fear that if more serious illness had been present, Dr. Cadoux would have had liability for not diagnosing the hair problems as related to diseases such as ovarian or polycystic ovary disease. Dr. Cadoux responded that a standard of reasonableness would be employed by the courts and that his service had been advertised as cosmetic in nature. The motion passed 6-0.

B. *New Cases*

6. 03-07 Thomas Grade, MD, MD(H)

The Board discussed information relating to a malpractice settlement that had been provided by Dr. Grade during the 2003 renewal process. In their review of the documentation, they noted that no homeopathic procedures had been utilized. Dr. Shelton pointed out that the matter was outside the Board's jurisdiction. Dr. Gordon made a motion to dismiss the matter. Motion seconded by Dr. Welch and passed 6-0.

7. 03-11 William Mauer, DO, MD(H)

This matter had come to the attention of the Board when Dr. Mauer reported the revocation of his Illinois allopathic medical license on the 2003 renewal form. Drs. Gordon and Shelton explained that at the time of Dr. Mauer's licensure by the Arizona Homeopathic Medical Board the Illinois case had been pending. Dr. Gordon made a motion dismissing the matter, noting the revocation of Dr. Mauer's Illinois license and stated that the Board had previously reviewed the facts of the case at the time of initial licensure, under A.R.S. §32-2912(C). No additional investigation was necessary at this time. Motion seconded by Dr. Welch and passed 6-0.

VI. REVIEW, CONSIDERATION AND ACTION ON APPLICATIONS FOR HOMEOPATHIC MEDICAL ASSISTANT

A. Application to work with multiple supervisors

Peggy Elliott's application to serve as a medical assistant in Dr. Todd Rowe's office was reviewed. Dr. Gordon made a motion approving the request noting that Ms. Elliott was already serving as an assistant to Dr. Adler in Sedona, Arizona. He indicated that the language of AAC R4-38-308(A) states that a supervisory physician shall register each assistant and as such, a fee is due from each physician that employs or contracts with the assistant. This would also apply to renewal fees. A registration fee for Ms. Elliott's application to serve as an assistant to Dr. Todd Rowe had not been received and was due. Motion seconded by Dr. Schwengel and passed unanimously.

B. Correspondence from Dr. Todd Rowe regarding scope of practice under AAC R4-38-302 and supervision of medical assistants.

After reviewing Dr. Rowe's correspondence concerning whether or not a medical assistant scope of practice would fall under R4-38-302, the Board noted that the the duties expected of the assistant and designated in Dr. Rowe's letter would fall under AAC R4-38-302(A)(1).

C. Application of Marilyn Kimball for homeopathic medical assistant

Dr. Gordon made a motion approving Marilyn Kimball's application for homeopathic medical assistant. Motion seconded by Dr. Schwengel and passed unanimously.

VII. REVIEW, CONSIDERATION AND ACTION ON RULES/LEGISLATION

1. The proposed draft of rules relating to changes to Chapter 38, Article 3, Education, Supervision, and Delegation Standards for Registration of Medical Assistants, Sections R4-38-301 through R4-38-311 were reviewed. Dr. Gordon made a motion to open a docket at the Office of the Secretary of State. Motion seconded by Ms. Prassa and passed unanimously.
2. The Board reviewed a draft of a substantive policy statement regarding chelation therapy. Dr. Gordon moved to approve the statement and directed that it be filed at the Office of the Secretary of State. Dr. Schwengel seconded the motion that passed unanimously.

VIII. REVIEW, CONSIDERATION AND ACTION ON PROFESSIONAL BUSINESS

1. Dr. Levin's protocols for chelation therapy and nanobacTX-ACES Research Trial and Formula were reviewed. The Board did not approve the nanobacTX-ACES Research protocols stating that the research was in disfavor in the United States. They requested that additional language be added to the chelation protocols stating that the Heil Company has been discouraging the use of intravenous administration of DMPS, unless oral administration is not possible.
2. Todd Rowe, MD, MD(H) and Thelma Rowe were present for the discussion regarding the possible formation of a homeopathic school of medicine. Dr. Rowe indicated that he had conducted three classes since the Desert Institute of Classical Homeopathy had opened in 2000. The school was accredited by the CHC and had been licensed the the Arizona Board Examiners of Private Post Secondary Schools. Dr. Rowe has applied for accreditation from the ACCSME to make it possible for students to seek financial aid assistance. He stated that it was his plan the school would be a three year program with a degree at graduation similar to the Naturopathic school.

Of particular concern to Dr. Rowe was the need for the Board to change the laws governing training and licensing so that graduates would have a career pathway. Ultimately, a homeopathic medical school would bring about greater public awareness of homeopathy. Ms. Prassa asked if the school would teach

integrative medicine. Dr. Rowe responded in the affirmative, but stated that graduates would not learn pharmacology.

Dr. Rowe asked for a letter of affirmation from the Board indicating our support of the school of homeopathy. Dr. Gordon made a motion that the Board send a letter affirming the idea of a homeopathic school of medicine. Ms. Prassa seconded the motion that passed unanimously.

3. There was considerable discussion concerning the need to revise the written examination that currently tests the applicant's knowledge of classical homeopathy. Dr. Shelton directed the board's attention to ARS 32-2913(B) that states that an examination for a license to practice under this chapter shall include all subjects which are generally accepted as necessary for a thorough knowledge of the practice of medicine as homeopathic physicians. The statute appears to indicate that all homeopathic practice modalities are acceptable topics for inclusion in the written examination. Dr. Shelton suggested that the board may want to rewrite the oral examinations to include clinical reviews of the other practice modalities. Dr. Welch stated that all applicants should take the written examination and no waivers should be granted. She added that additional questions could be included in the written examination that would provide a mix of questions relating to all the modalities included in the definition of the practice of homeopathic medicine. Ms. Heskett concurred that all applicants should be required to take the written examination.

The board's discussion concluded after noting that the Examination Committee should meet and rewrite the administrative code regulations that currently limit the written examination to questions relating to classical homeopathy. (AAC R4-38-105.A and R4-38-102.D.) Eventually, the board would want to include questions relating to the other practice modalities. The ideal mix of questions would include 100 questions related to classical homeopathy and another 100 questions related to a mix of the other practice modalities defined in ARS §32-2901(22).

IX. REVIEW, CONSIDERATION OF OTHER BUSINESS

1. Christine Springer reported the results of the 2003 license renewal and stated that 100 licensees renewed with three physicians choosing not to renew. There were 54 dispensing permits issued and 20 medical assistants registered. Total renewal revenue including late fees totaled \$61,600.

2. The Governor's plan to consolidate the administrative functions of the regulatory boards was discussed. The board requested that a letter be sent to the Governor indicating their disagreement with the idea.

X. FUTURE AGENDA ITEMS

None

XI. CALL TO THE PUBLIC

No public members were present

XII. ESTABLISHMENT OF FUTURE MEETING DATES

None

XIII. CLOSE OF BUSINESS/ADJOURNMENT

The meeting adjourned at 1:45 p.m. following a motion by Mrs. Heskett. Ms. Prassa seconded the motion that passed unanimously. The next Regular Meeting of the Board will convene at the State Board's Offices, 1400 W. Washington, Basement Conference Room B-1, Phoenix, Arizona, 9:00 AM, on **July 8, 2003.**

Respectfully Submitted,

Christine Springer
Executive Director

Approved at the July 8, 2003 Regular Meeting